

## Message Text

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ORIGIN ARA-02

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DRAFTED BY:ARA:DWCOX

APPROVED BY:ARA:DWCOX

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P 242200Z MAY 75

FM SECSTATE WASHDC

TO AMEMBASSY TOKYO PRIORITY

LIMITED OFFICIAL USE STATE 121545

FOR ASSISTANT SECRETARY ROGERS

FOL SENT TO LA PAZ MAY 23, 1975 FROM SECSTATE

QUOTE LIMITED OFFICIAL USE STATE 121545

E.O. 11652:N/A

TAGS: PFOR, ENRG, EIND, BL

SUBJECT: GULF OIL: RESPONSE TO ACTING FOREIGN  
MINISTER'S NOTE

REFS: (A) LA PAZ 3382; (B) LA PAZ 3210

1. DEPT. HAS REVIEWED AND AMENDED EMBASSY'S PROPOSED DRAFT  
REPLY TO ACTING FOREIGN MINISTER'S NOTE ON THIS SUBJECT.  
FOLLOWING IS A DRAFT TEXT, WHICH WE HOPE WILL BE RESPONSIVE  
TO SOME OF GOB CONCERNS EXPRESSED TO US IN NOTE AND ELSE-  
WHERE.

2. QUOTE: MR. MINISTER: I HAVE THE HONOR OF CONVEYING TO  
YOU THE REPLY OF MY GOVERNMENT TO YOUR NOTE G.S. 049/23 OF  
MAY 8, 1975 REQUESTING THAT I TRANSMIT TO MY GOVERNMENT  
THE REQUEST FOR COOPERATION CONTAINED IN THE DOCUMENT YOU  
ATTACHED TO THAT NOTE.

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QUOTE: IN ADDITION TO RESPONDING TO THE REQUEST OF YOUR  
GOVERNMENT, MY GOVERNMENT FEELS IT WOULD BE HELPFUL TO SET  
OUT U.S. POLICY WITH RESPECT TO THESE MATTERS AND TO EXPLAIN  
THE STEPS BEING TAKEN BY U.S. GOVERNMENT AGENCIES.

QUOTE: AS THE U.S. GOVERNMENT HAS INDICATED PUBLICLY ON SEVERAL OCCASIONS, WE DO NOT CONDONE ILLEGAL ACTIVITIES OF

AMERICAN BUSINESS AND INDUSTRIAL FIRMS ABROAD. ANY AMERICAN FIRM MAKING UNLAWFUL PAYMENTS TO OFFICIALS OF FOREIGN GOVERNMENTS CANNOT LOOK TO THE DEPARTMENT OF STATE FOR PROTECTION FROM LEGITIMATE LAW ENFORCEMENT ACTIONS BY THE RESPONSIBLE OFFICERS OF EITHER THE FOREIGN COUNTRY IN QUESTION OR THE U.S. AT THE SAME TIME, MY GOVERNMENT ASSUMES THAT THE INVESTIGATION AND PROSECUTION OF UNITED STATES NATIONALS WILL BE NON-DISCRIMINATORY, THAT THE PENALTIES WILL BE PROPORTIONATE TO THE OFFENSE, AND THAT PERSONS OR FIRMS CHARGED WITH IMPROPER CONDUCT WILL BE TREATED FAIRLY AND IN ACCORDANCE WITH THE MINIMUM REQUIREMENTS OF INTERNATIONAL LAW.

QUOTE: THE SECURITIES AND EXCHANGE COMMISSION OF THE UNITED STATES IS AN INDEPENDENT GOVERNMENT ENTITY WITH SPECIFIC RESPONSIBILITIES AND INVESTIGATIVE AUTHORITY RELATING TO THE PROTECTION OF U.S. SHAREHOLDERS. POLITICAL CONTRIBUTIONS ABROAD AND PAYMENTS TO FOREIGN OFFICIALS ARE NOT VIOLATIONS OF U.S. LAW, BUT FAILURE TO DISCLOSE SUCH PAYMENTS MAY VIOLATE SEC REGULATIONS IN CERTAIN CIRCUMSTANCES. THE SEC INITIALLY BEGAN AN INVESTIGATION OF GULF OIL COMPANY BECAUSE OF ALLEGATIONS THAT UNDISCLOSED PAYMENTS MIGHT HAVE BEEN MADE. IN AN AGREEMENT APPROVED BY THE FEDERAL DISTRICT COURT, THE UNITED STATES SECURITIES AND EXCHANGE COMMISSION, AND THE GULF OIL CORPORATION, MR. JOHN MCCLOY WAS DESIGNATED TO HEAD AN INTERNAL INVESTIGATION OF THE GULF OIL CORPORATION, DIRECTED AT UNCOVERING POSSIBLE ILLEGAL ACTIONS THAT WOULD ADVERSELY AFFECT THE RIGHTS OF THAT CORPORATION'S STOCKHOLDERS UNDER U.S. LAW. ON COMPLETION OF THE INVESTIGATION, A REPORT WILL BE SUBMITTED TO THE FEDERAL DISTRICT COURT, THE SECURITIES AND EXCHANGE COMMISSION AND THE BOARD OF DIRECTORS OF THE LIMITED OFFICIAL USE  
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GULF OIL CORPORATION. THE DEPARTMENT OF STATE HAS BEEN ADVISED BY THE SEC THAT THE SEC HAS NO INFORMATION ON THE NATURE AND EXTENT OF THE PAYMENTS OR THE IDENTITY OF THE PERSONS TO WHOM THEY WERE ALLEGEDLY MADE IN BOLIVIA, GOING BEYOND THAT WHICH HAS ALREADY BEEN COMMUNICATED TO THE GOVERNMENT OF BOLIVIA BY THE GULF OIL COMPANY. THE GOVERNMENT OF THE UNITED STATES REMAINS FULLY COGNIZANT OF THE DEEP AND SERIOUS CONCERN THE GOB ATTACHES TO THIS ISSUE, AND WISHES TO EXPRESS ITS DESIRE TO BE AS HELPFUL AS POSSIBLE TO THE GOB, CONSISTENT WITH THE REQUIREMENTS OF U.S. LAW AND REGULATIONS AND THE RESPONSIBILITIES OF THE AFFECTED U.S. GOVERNMENT AGENCIES. THE DEPARTMENT OF STATE HAS BEEN IN TOUCH WITH OFFICIALS OF THE GULF OIL

COMPANY, AND THEY HAVE ASSURED US THAT AN INTENSIVE INVESTIGATION IS UNDERWAY AND THAT GULF WILL PROVIDE COMPLETE INFORMATION TO THE GOB AT THE EARLIEST POSSIBLE MOMENT.  
(ADD USUAL CLOSING.) UNQUOTE.

3. WHEN PRESENTING THIS NOTE, YOU SHOULD POINT OUT THAT USG FULLY APPRECIATES SENSITIVITY OF POLITICAL SITUATION IN LA PAZ AND WE ARE DOING EVERYTHING WE APPROPRIATELY CAN TO GET GULF TO MAKE PROMPT RESPONSE TO GOB REQUEST. MEANWHILE, WE EARNESTLY HOPE THAT GOB WILL NOT BE PRESSED TO OVER REACT OR TAKE EXTRA JUDICIAL ACTIONS. USG CANNOT OBJECT TO LEGITIMATE CRIMINAL PROCESS WHERE FACTS WARRANT IT. WE DO NOT KNOW, FOR EXAMPLE, WHETHER "POLITICAL CONTRIBUTIONS" - AS OPPOSED TO BRIBES - ARE CRIMINAL UNDER BOLIVIAN LAW OR WHETHER DETENTION OF GULF REPRESENTATIVE DORADO AND WARRANT AGAINST GULF CHAIRMAN DORSEY ARE NECESSARY. IT SEEMS TO US THAT SUSPENSION OF COMPENSATION PAYMENTS WOULD BE AN INAPPROPRIATE RESPONSE TO ACTIONS WHICH IF ESTABLISHED TO BE UNLAWFUL SHOULD BE SUBJECT TO THE JUDICIAL PENALTIES SPECIFIED BY LAW. INGERSOLL UNQUOTE KISSINGER

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